RECENT IMPORTANT DECISIONS

ADOPTION.—RIGHT TO INHERIT FROM FOSTER PARENTS NOT LOST BY RE-ADOPTION BY NATURAL FATHER.—In an adopted child's action against the natural children of foster parents and their assigns for the partition of real estate, where it appeared that the child had been re-adopted by the natural father, and where it appeared that she had stood by while the natural children sold the property to the co-defendants, it was *held* that the right to inherit from the foster parents was not lost by the readoption by the natural father and that she was not estopped to assert her rights. *Holmes* v. *Curl, et al,* (Iowa, 1920) 178 N. W. 406.

At common law adoption was unknown. Hence the legal status of an adopted child depends entirely on the statute. *Albring* v. *Ward,* 137 Mich. 352; PECK, DOMESTIC RELATIONS, Sec. 106. The statutes provide in most states that the adopted child may inherit from the adopting parents. *Morrison* v. *Sessions,* 70 Mich. 297; STIMSON, AMERICAN STATUTE LAW, § 6647 A. His right to inherit from his natural kindred, however, is not thereby destroyed. *In re Darling's Estate,* 173 Cal. 221; 15 MICH. L. REV. 161. The Iowa Code (1897), Chapter 7, title 16, contains the provision that the relations between the adopted child and foster parents "shall be the same that exist by law between parent and child by lawful birth." This being the case, the rights given to the child under the statute could not be destroyed at the pleasure of the father and the adopting parents. As soon as she was adopted she acquired as between parent and child the same legal status as a natural child. Therefore, she lost no right to inherit from her natural father, but, acquired an additional right of inheritance. *Wagner* v. *Warner,* 50 Iowa 582; *Hilpire* v. *Claude,* 109 Iowa 159. A child by adoption who is adopted the second time inherits from his first foster parents. *Dreyer* v. *Shrick,* 105 Kansas 495. Appellants relied on the case of *In re Klapp's Estate,* 197 Mich. 615. In that case the court held that all right of inheritance was destroyed by the subsequent adoption of the child to another by the adopting parents. The decision was by a divided court, however, and as far as can be learned, has not been followed in any other jurisdiction. It has been disapproved in the case of *Dreyer* v. *Schrick,* 105 Kansas 495, and the contrary was held in *Patterson* v. *Browning,* 146 Ind. 160, and in *Villier* v. *Watson Admn'x.,* 168 Ky. 631. The defect in the reasoning of the Michigan case is this: While a new domestic relation was created by the second adoption, the first adoption proceeding is in no way affected by the second. The first proceeding stands for all time unless formally annulled on sufficient grounds. The reason is that stated above that the child upon adoption acquires the same legal status as a natural child of the adopting parents. It is clear that there was no estoppel in the case, defendants as well as plaintiffs had constructive notice of the articles of adoption, and it has been held by a long line of decisions that where the facts are equally within the knowledge of both parties, or where they have equal means of ascertaining the truth there can be no estoppel. *Logan* v.

Davis, 147 Iowa 441; *Busby* v. *Busby*, 137 Iowa 37; *Crockett* v. *Cohen*, 82 W. Va. 284; *Blodgett* v. *Perry*, 97 Mo. 263; and *Cantley* v. *Morgan*, 41 S. E. 201.

ADVERSE POSSESSION—RECOGNITION OF TITLE IN ANOTHER—TACKING.—Plaintiff sought to quiet title to land on theory of adverse possession, the defendant holding the title of record. One A had been in possession in 1880 as tenant of one S. In 1903 S deeded the land to A but description did not include the land in question. Plaintiff derived title from A. *Held*, plaintiff has failed to show title in himself and so his action cannot be maintained. *Wilhelm* v. *Herron* (Mich., 1920), 178 N. W. 769.

It is a peculiar circumstance that the plaintiff, having so many plausible theories on which he might succeed was unable to succeed on any one of them. While it is true that A's possession as a tenant was the possession of S, yet as to everyone else it was hostile and so might ripen into title. *Skipwith* v. *Martin*, 50 Ark. 141. In the principal case, this possibility was denied and the court held that if anyone got title it was S. The plaintiff further contended that the adverse possession of A should be tacked to that of S and this contention may be supported either by the Kentucky theory that tacking does not require privity, *Shannon* v. *Kinney*, 1 A. K. Marsh 3, or by the doctrine that even though privity be necessary, continuity of possession by mutual consent is sufficient; *McNeely* v. *Langan*, 22 Oh. St. 32. Finally, the plaintiff being in possession, and title conceded to have been in S, as against everyone else, he might well be entitled to a decree quieting title. The court did not apply the doctrine that possession is good against the whole world except the true owner but maintained that as against the title of record, the plaintiff must show title in himself.

BAILMENTS—GRATUITOUS BAILOR NEED ONLY WARN OF DEFECTS OF WHICH HE KNOWS.—An owner of a motortruck gratuitously lent it to an employee to attend a celebration. One riding in the truck on invitation of the borrower was killed due to a defect in the body of the truck. In an action to recover damages from the bailor, *held*, the owner was not liable for failure to warn of defects of which he did not know even though he might well have known them. *Johnson* v. *H. M. Bullard Co.* (Conn., 1920), 111 Atl. 70.

Cases involving the duties and liabilities of the gratuitous bailor are few. Before the law was settled in England as to the liability of such a bailor for defects in the bailed chattel which were unknown to him, it had been decided that concealment of known defects would make him liable. *Levy* v. *Langridge*, 4 M. & W. 337; *Winterbottom* v. *Wright*, 10 M. & W. 107. When the question arose in *Blakemore* v. *Bristol & Exeter Ry. Co.*, 8 Ellis & B. 1035, as to the bailor's liability for unknown defects, the court accepted the principles which Pothier and Story had drawn from the Roman law, and held the bailor not liable. Thus we have another illustration of the influence of the Roman law upon the English law of bailments. As is pointed out in the *Blakemore* case the fact that the bailor received nothing for the use of his chattel, should render him less liable than if the bailment were for the mutual benefit of both parties. It is settled that in a bailment for hire, the